

APPEAL NO. 020933
FILED MAY 31, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on March 19, 2002. The hearing officer determined that the respondent (claimant), during the qualifying period for the 16th quarter, satisfactorily participated in a full-time vocational rehabilitation program sponsored by the Texas Rehabilitation Commission (TRC) and therefore was entitled to supplemental income benefits for the 16th quarter, having fulfilled the requirements of a good faith search for employment. She further found that the claimant's underemployment was the direct result of his impairment.

The appellant (self-insured) has appealed, arguing that no evidence was presented to support direct result. The self-insured further argues that the claimant did not satisfactorily participate in his TRC plan because he did not obtain and maintain employment during the qualifying period for the 16th quarter, and, further, did not cooperate with the self-insured's own vocational provider. There is no response from the claimant.

DECISION

We affirm the hearing officer's decision.

The hearing officer did not err in finding that the claimant satisfactorily participated in a full-time vocational rehabilitation program sponsored by TRC. Essentially, the self-insured argues that because each and every listed objective in a TRC plan (one which, in this case, spans a two-year period before and after the quarter in issue) is not undertaken simultaneously, there is not a satisfactory participation. In short, the self-insured argues that because the claimant did not obtain and maintain employment at the very same time he was training for it, he did not satisfactorily participate in the plan. We do not agree. The hearing officer evidently lent a common-sense interpretation to the plan that allows for sequential fulfillment of the listed criteria and goals over the two-year period. In any case, the claimant also actually sought employment during the qualifying period, in addition to attending school. Texas Workers' Compensation Commission Appeal No. 002378, decided November 21, 2000, does not support the self-insured's argument, because that decision was based upon the lack of evidence of any plan at all, not the failure to comply with all listed criteria simultaneously in a plan actually in evidence.

Second, the self-insured argues that because the claimant was not cooperative with its private vocational rehabilitation services provider, good faith cannot be found. Again, we do not agree. Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.102 (Rule 130.102(d)) is written in a manner that does not require a person cooperating with TRC to also be cooperating with a private provider.

Finally, we find sufficient evidence in the record and history of the injury as

developed therein to support the hearing officer's determination in favor of the claimant on the "direct result" criterion.

The decision of the hearing officer will be set aside only if the evidence supporting the hearing officer's determination is so weak or against the overwhelming weight of the evidence as to be clearly wrong or manifestly unjust. Atlantic Mutual Insurance Company v. Middleman, 661 S.W.2d 182 (Tex. App.-San Antonio 1983, writ ref'd n.r.e.). We affirm the decision and order.

The true corporate name of the insurance carrier is **(a certified self-insured)** and the name and address of its registered agent for service of process is

**C.T. CORPORATION SYSTEM
350 NORTH ST. PAUL STREET
DALLAS, TEXAS 75201.**

Susan M. Kelley
Appeals Judge

CONCUR:

Thomas A. Knapp
Appeals Judge

Robert W. Potts
Appeals Judge